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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/072,850

02/05/2002

Densen Cao

5061.5 P

9425

7590

09/27/2004

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EXAMINER

LEWIS, RALPH A

ART UNIT

PAPER NUMBER

3732

DATE MAILED: 09/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/072,850	CAO, DENSEN	
	Examiner	Art Unit	
	Ralph A. Lewis	3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 8-15 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-15 and 17-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **Rejections based on 35 U.S.C. 112, second paragraph**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 10, the limitation "said at least one wall of at least one well" is not understood.

### **Rejections based on Obvious-type Double Patenting**

The terminal disclaimer filed 5/24/2004 has been disapproved because the last five application numbers listed are incorrect. Unrelated applications to others are improperly disclaimed. The applications listed should be 10/073,672 (not 10/072,672) etc. Accordingly, the obvious-type double patenting rejections are herein repeated.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-4, 11, 12, 19 and 20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-36 of U.S. Patent No. 6,331,111. The patented claims of 6,331,111 set forth all the limitations of the present claims, but present them in a more detailed narrower version than those of the present application. Merely setting forth the already patented structure in broader versions would have been obvious to one of ordinary skill in the art.

Claims 5, 8-10 and 13-18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-36 of U.S. Patent No. 6,331,111 in view of Mills (WO 99/16136). The patented claims of 6,331,111 set forth all the limitations of the present claims with the exception of those requiring the secondary heat sink to be elongated. Mills, however, teaches that it is desirable to provide for an elongated secondary heat sink 45, 50, 51, in order to draw heat away from the primary heat sink 48. To elongate the secondary heat sink set forth in the patented claims of 6,331,111 in order to better draw heat away from the primary heat sink as taught by Mills would have been obvious to one of ordinary skill in the art.

Claims 1-5, 8-15, and 17-20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over  
claims 1-20 of copending Application No. 10/016,992;  
claims 1-20 of copending Application No. 10/017,272;

claims 1-20 of copending Application No. 10/017,454;  
claims 1-20 of copending Application No. 10/017,455;  
claims 1-23 of copending Application No. 10/067,692;  
claims 1-17 of copending Application No. 10/071,847;  
claims 1-17 of copending Application No. 10/072,462;  
claims 1-18 of copending Application No. 10/072,613;  
claims 1-19 of copending Application No. 10/072,635;  
claims 1-20 of copending Application No. 10/072,659;  
claims 1-23 of copending Application No. 10/072,826;  
claims 1-20 of copending Application No. 10/072,852;  
claims 1-17 of copending Application No. 10/072,831;  
claims 1-20 of copending Application No. 10/072,853;  
claims 1-20 of copending Application No. 10/072,859;  
claims 1-20 of copending Application No. 10/073,672;  
claims 1-20 of copending Application No. 10/073,819;  
claims 1-20 of copending Application No. 10/073,822;  
claims 1-19 of copending Application No. 10/073,823; and  
claims 1-20 of copending Application No. 10/076,128.

The limitations of the present claims all appear to broader or slightly different obvious versions of the pending claims in the above identified applications. Merely leaving out limitations (e.g. the "wall outlet power adapter" of claim 1 in 10/016,992) in order to make the claims broader or providing for different groupings of the elements set forth in the claims of the above identified pending applications would have been obvious to the ordinarily skilled artisan.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### **Allowable Subject Matter**

Claims 1-5, 8, 9, 11-15 and 17-20 would be allowable upon the filing of a terminal disclaimer overcome the obvious-type double patenting rejections. Claim 10 would be allowable if rewritten to overcome the rejection based on 35 U.S.C. 112, second paragraph above and the filing of a proper terminal disclaimer.

### **Action Made Final**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication should be directed to **Ralph Lewis** at telephone number **(703) 308-0770**. Fax (703) 872-9306. The examiner works a compressed work schedule and is unavailable every other Friday. The examiner's supervisor, Kevin Shaver, can be reached at (703) 308-2582.

R.Lewis

September 17, 2004

A handwritten signature in black ink, appearing to be 'R. Lewis', with a stylized flourish at the end.

Ralph A. Lewis  
Primary Examiner

AU3732